

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

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SUISSE

## PCT

### NOTIFICATION OF TRANSMITTAL OF THE INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (PCT Rule 71.1)

Date of mailing  
(day/month/year)

19.09.2005

Applicant's or agent's file reference  
RS101

#### IMPORTANT NOTIFICATION

International application No.  
PCT/IB2004/051833

International filing date (day/month/year)  
23.09.2004

Priority date (day/month/year)  
28.08.2003

Applicant  
SCHNYDER, Guido

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary report on patentability and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

#### 4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the International  
preliminary examining authority:



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Form PCT/PEA/416 (January 2004)

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10/03/2006 14:58



# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference RS101		<b>FOR FURTHER ACTION</b>		See Form PCT/PEA/418
International application No. PCT/IB2004/051833		International filing date (day/month/year) 23.09.2004		Priority date (day/month/year) 28.09.2003
International Patent Classification (IPC) or national classification and IPC A61L31/02, A61L31/14				
Applicant SCHNYDER, Guido				
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> sent to the applicant and to the International Bureau a total of 10 sheets, as follows:</p> <p><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.18 and Section 807 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (Indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>				
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>				
Date of submission of the demand 11.04.2005		Date of completion of this report 19.09.2005		
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 851 epo nl Fax: +31 70 340 - 3016		Authorized Officer Heck, G Telephone No. +31 70 340-3288 		

INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITYInternational application No.  
PCT/IB2004/051833

10/574060

## Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
  - ☐ This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
    - ☐ international search (under Rules 12.3 and 23.1(b))
    - ☐ publication of the international application (under Rule 12.4)
    - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

## Description, Pages

2-4, 7, 9-11, 13

as originally filed

1, 5, 6, 8, 12, 12a

received on 15.04.2005 with letter of 11.04.2005

## Claims, Numbers

1-20

received on 15.04.2005 with letter of 11.04.2005

## Drawings, Sheets

1/1

received on 15.04.2005 with letter of 11.04.2005

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to sequence listing (*specify*):

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to sequence listing (*specify*):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY**

International application No.  
PCT/IB2004/051833

**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Yes: Claims	1-20
	No: Claims	
Inventive step (IS)	Yes: Claims	1-20
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-20
	No: Claims	

**2. Citations and explanations (Rule 70.7):**

see separate sheet

**INTERNATIONAL PRELIMINARY  
REPORT ON PATENTABILITY  
(SEPARATE SHEET)**

International application No.

**PCT/IB2004/051833**

**Re Item V**

**Reasoned statement under Article 35(2) PCT with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

Reference is made to the following documents (D1-D4):

- D1 ... US 4,602,632 A (Jorgensen R.)
- D2 ... WO 02/053202 A (Hausdorf G. et al.)
- D3 ... US 2002/004060 A (Heublein B. et al.)
- D4 ... US 6,506,210 A (Kanner G.)

Document D1 discloses (cf. col. 3, par. 4 ; claim 1) a bioabsorbable metal hemostatic clip for occluding blood vessels during surgical procedures.

Document D2 discloses (cf. claims 1-3) biodegradable medical implants such as stents or surgical clips made of a metallic alloy based on tungsten, rhenium, osmium or molybdenum.

Document D3 discloses (cf. claims 1-7, 18) a medical implant in form of a coil, an umbrella, a stent, a wire network, a clip or a plug made of a biodegradable metallic material containing magnesium, iron or zinc as main constituent.

Document D4 discloses (cf. col. 1, l. 7-22 ; claim 1) a tissue stapler comprising a plurality of prongs for closing puncture wounds.

The subject-matter of claims 1-20 of the present application differs from D1-D3 in that the member is suitable for urging together portions of tissue resulting from a puncture wound and from D4 in the choice of bioresorbable and/or biodegradable material and is therefore novel according to Article 33(2) PCT.

Document D4, which is considered the most relevant state of the art, discloses (cf. col. 1, l. 7-22 ; claim 1) a tissue stapler comprising a plurality of prongs for closing puncture wounds.

In view of D4, the objective technical problem underlying the present application can be formulated as to reduce the risk of injuries or other complications following application of

**INTERNATIONAL PRELIMINARY  
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(SEPARATE SHEET)**

International application No.

**PCT/IB2004/051833**

sealing members for urging together two or more portions of body tissue from a puncture wound.

The solution is a sealing member made of a material selected from metals, alloys and ceramic compounds thereof, said material being bioresorbable and/or biodegradable.

Since the sealing member according to the present application is present in the body for a limited time, the risk of subsequent injury by external compression of the sealing member in the body is greatly reduced.

Biodegradable and bioabsorbable metallic materials have been used in the prior art for making surgical devices. However, the skilled person had no suggestion or incentive to modify the metallic or ceramic materials used in D4 to make them bioresorbable and/or biodegradable. Consequently, the subject-matter of claims 1-20 of the present application is considered to involve an inventive step according to Article 33(3) PCT.